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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 August 2000, at 10 a.m.

Chairperson: Ms. MOTOC

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CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS

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GE.00-15164 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Draft resolution under agenda item 6

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/2000/L.22)

1. Ms. WARZAZI, introducing the draft resolution, said that it had been unanimously approved by the Working Group on Contemporary Forms of Slavery. She therefore hoped that it would be adopted by consensus.

2. Ms. DAES, Mr. ALFONSO MARTÍNEZ, Mr. YOKOTA, Mr. YIMER, Mr. FAN, Mr. RODRÍGUEZ CUADROS, Mr. JOINET, Mr. OLOKA-ONYANGO and Mr. WEISSBRODT said that they wished to become sponsors of the draft resolution.

3. Draft resolution E/CN.4/Sub.2/2000/L.22 was adopted.

Draft resolutions and decisions under agenda item 9

Draft decision on gross and massive violations of human rights as an international crime (document without a symbol, distributed in the meeting room)

4. Mr. JOINET said that, thanks to Ms. Warzazi's breadth of vision, the spirit of cooperation among the Sub-Commission at large and the valuable advice of Ms. Zerrougui and Mr. Rodríguez Cuadros, he was in a position to put forward a draft decision on agenda item 9 (c), to read:

> "The Sub-Commission on the Promotion and Protection of Human Rights, considering that colonialism, wars and slavery have constituted gross and massive violations of the human rights of peoples and individuals which should not enjoy continued impunity,
>
> Requests the Secretary-General to prepare a working document on gross and massive violations of human rights as crimes against humanity committed in the colonial era, wars of conquest and slavery, to include measures and proposals that could be adopted to provide reparation for the victims and honour their memory."

5. Mr. GUISSÉ said that, in the last sentence, he would prefer the word "should" to the word "could". He was, however, in favour of adopting the draft decision by consensus.

6. The draft decision on gross and massive violations of human rights as an international crime was adopted.

Draft resolution on the role of universal or extraterritorial competence in preventive action against impunity (E/CN.4/Sub.2/2000/L.31)

7. Mr. JOINET, introducing the draft resolution, suggested a number of amendments arising out of consultations that he had held with the other experts, especially Ms. Zerrougui.

8. In the fourth preambular paragraph, the word "all" should be inserted before the words "perpetrators of such violations" and the words "especially former heads of State and Government" should be replaced by the words "including former heads of State ...". In the fifth preambular paragraph, the words "former President of Chile" should be deleted. In the first line of paragraph 1, the word "all" should be inserted before the word "Governments" and the words "in particular" should be replaced by the words "in a reciprocal manner, even in the absence of a treaty". In paragraph 2, the words "regardless of the circumstances in which such violations were committed" should be inserted after the word "given" and the word "concerning" should be followed by the words "any person responsible for war crimes or crimes against humanity, including".

9. Draft resolution E/CN.4/Sub.2/2000/L.31, as orally amended, was adopted without a vote.

Draft resolution under agenda item 10

Draft resolution on the right to seek and enjoy asylum (E/CN.4/Sub.2/2000/L.25)

10. Mr. WEISSBRODT, introducing the draft resolution, said that it aimed to strengthen existing links between refugee and international human rights law.

11. Having consulted the members of the Commission, he suggested the following amendments to the draft resolution. In the last preambular paragraph, the words "Recognizing that the principle of non-refoulement" should be followed by the words "under the Refugee Conventions and other human rights instruments". The last line of the same paragraph should be reworded to read: "constitutes indirect refoulement in contravention of the above-mentioned international human rights instruments".

12. In paragraph 1, the words "Urges all States to respect the principle of non-refoulement" should be followed by the words "in accordance with their obligations under the Refugee Conventions and other human rights instruments".

13. The aim of the proposed amendments was to indicate that the principle of non-refoulement existed not only in the Refugee Conventions and their Protocols, but also in paragraph 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, among others. In other words, the principle was widely accepted.

14. Mr. ALFONSO MARTÍNEZ said that the references to liberty of movement and a person's freedom to choose his or her residence in the first preambular paragraph were not relevant to the draft resolution, which related to the right to seek and enjoy asylum.

15. Ms. DAES said that she wished to become a sponsor of the draft resolution, as amended.

16. Mr. YOKOTA said that he supported the new version of the text. However, he believed that the principle of non-refoulement was already part of customary international law.

17. Mr. KARTASHKIN thanked Mr. Weissbrodt for taking his comments into account. Although he had some objections, he would be in favour of adopting the draft resolution by consensus.

18. Mr. GUISSÉ said that, in referring to "international human rights instruments", it was superfluous to enumerate those instruments. As for the question of choosing one's place of residence, his understanding was that international and domestic law coincided in that regard.

19. Mr. YIMER said that the principle of non-refoulement was not only a rule of international refugee law, but also a rule of customary international law.

20. Mr. WEISSBRODT said that the principle of non-refoulement could be found both in refugee law and in human rights standards. With regard to the first preambular paragraph, to which Mr. Alfonso Martínez had alluded, he considered that liberty of movement and the freedom to choose one's place of residence were human rights and they generally connected with the subject of non-refoulement. The draft resolution aimed to show the link between refugee and human rights law.

21. Mr. YIMER said that there should be no misunderstanding: he was not opposed to the consensus on the text under consideration.

22. Mr. KARTASHKIN said that, as all lawyers knew, the rules of international law were recognized only if they were applied by States. A large number of States, however, had neither ratified the Convention relating to the Status of Refugees nor recognized its principles. Since the right of asylum was, in his view, still in the making, it could not be said that it already constituted an obligation for all States. It would therefore be erroneous to maintain that it was a rule of general international law.

23. Mr. GUISSÉ said that the establishment of an international rule and the application of that rule were two entirely different matters. The failure to apply a rule was not the reason why it was not part of international law.

24. Draft resolution E/CN.4/Sub.2/2000/L.25, as amended, was adopted.

Draft resolution on the detention of asylum seekers (E/CN.4/Sub.2/2000/L.26)

25. The CHAIRPERSON invited Mr. Weissbrodt to introduce the draft resolution.

26. Mr. WEISSBRODT said that the draft resolution focused on a specific aspect of the right of asylum, namely, the fact that, in some countries, asylum-seekers were detained for long periods. Such practices were in breach of international human rights standards. Moreover, the draft resolution was in conformity with the guidelines issued by the Office of the United Nations High Commissioner for Refugees.

27. The words "from whatever region they come" should be added at the end of paragraph 2.

28. Ms. DAES, Mr. JOINET and Mr. GUISSÉ said that they wished to become sponsors of the draft resolution.

29. Draft resolution E/CN.4/Sub.2/2000/L.26, as orally amended, was adopted.

Draft resolution on the right of return of displaced persons (E/CN.4/Sub.2/2000/L.28)

30. The CHAIRPERSON invited Ms. Hampson to introduce the draft resolution.

31. Ms. HAMPSON said that some amendments had been proposed. First, the words "against being compelled" and "and that the right to return to their homes and places of habitual residence must be exercised" in the fifth preambular paragraph should be deleted. The paragraph would thus read:

> "Noting that the right to freedom of movement and the right to adequate housing include the right for returning refugees and internally displaced persons to return to their homes and places of habitual residence in a voluntary and dignified manner."

A new paragraph 6 should also be inserted to follow paragraph 5, with a corresponding change in the numbering of the following paragraphs, with the following wording:

> "6. Urges Governments and other actors involved to do everything possible in order to cease at once all practices of forced displacement, population transfer and 'ethnic cleansing' in violation of international legal standards."

The new paragraph was taken from Sub-Commission resolution 1994/24.

32. In addition, the words "where there is no alternative" should be inserted in existing paragraph 6 after the words "Further confirms that". The paragraph would thus read: "Further confirms that, where there is no alternative, displaced persons may choose ...".

33. Lastly, the existing paragraph 7 should be replaced by the following text:

> "Confirms that, where the right to return of displaced persons is not acknowledged, no payment of money can extinguish or modify the scope of their right to return."

34. Mr. SIK YUEN said that some provisions of the draft resolution were of fundamental importance and time was therefore needed to consider them properly.

35. He took note of the amendments proposed by Ms. Hampson, but did not understand why she had decided to amend the fifth preambular paragraph. While recognizing the importance of the principle of protecting displaced persons, in particular their right to return, he was unfortunately unable to be a sponsor of the draft resolution as amended.

36. The new paragraph 6, as proposed by Ms. Hampson, was inadequate. He therefore suggested that the words "and to ensure the immediate return of all persons compelled to leave their homes" should be added to the end of the paragraph. As for the amended paragraphs 7 and 8 (former paragraphs 6 and 7), he noted that the draft resolution was entitled "The right of return of displaced persons". The draft resolution should therefore focus on that right; yet in places it had nothing to do with the title. For example, the two paragraphs mentioned earlier allowed both for the property rights of displaced persons to be exchanged and for such persons to sell their right to return to their homes or places of habitual residence.

37. Mr. PINHEIRO, supported by Mr. GUISSÉ, raised a point of order. Given the large number of draft resolutions awaiting consideration, it was vital that speaking time should be apportioned equitably.

38. The CHAIRPERSON asked Mr. Sik Yuen to concentrate on the main points.

39. Mr. SIK YUEN said that paragraph 7 (former paragraph 6) was open to misinterpretation. To his mind, the key issue raised by the paragraph was who should decide "where there [was] no alternative". It must not be forgotten that displaced persons were highly vulnerable and that it was thus very difficult for them to make a completely free choice. Furthermore, some people could misinterpret the text by concluding that it encouraged tyrants to create a situation of no return. He was thus not in favour of the inclusion of the words "where there is no alternative".

40. He also proposed that paragraph 8 (former paragraph 7) should be worded:

> "Confirms that the right to return is not extinguished by payment of money or benefits in kind."

41. Ms. HAMPSON said that she could not accept the amendments proposed by Mr. Sik Yuen. The new paragraph, which was taken from a Sub-Commission resolution, was aimed at preventing ethnic cleansing. However, the phrase proposed for insertion by Mr. Sik Yuen would authorize, or even oblige, States in which victims of ethnic cleansing had found refuge to deport them on the grounds that they must ensure their immediate return. That would be inconsistent with the obligation to protect such persons in accordance with UNHCR policy and the Sub-Commission resolution on the right to seek and enjoy asylum.

42. Paragraph 7 (former paragraph 6) was based on fact. In some situations, illegally displaced persons were unable to return to their homes in full security. Abstractly speaking, such persons certainly did wish to return home. In reality, however, members of different communities simply did not want - or were not able - to live alongside each other. In such situations, it was important that displaced persons should not lose everything they owned. The paragraph was aimed at saving whatever could be saved. It was necessary to ensure that the

decision of such persons was freely taken and that their property rights were recognized. If the paragraph was deleted, displaced persons would not even possess those guarantees.

43. The wording proposed by Mr. Sik Yuen for paragraph 8 did not take account of international law or of practical realities. A person was indeed completely free to choose, for whatever reason, not to exercise a right and to commit himself not to exercise it. However, paragraph 8 as she had formulated it was aimed at guaranteeing that no sum of money or any other advantage accorded to persons who were not authorized to return home could deprive them of the right of choosing voluntarily to return.

44. Mr. SIK YUEN said that, according to the terms of paragraph 8 (former paragraph 7) proposed by Ms. Hampson, if the right to return of displaced persons was not recognized, no payment of sums of money could extinguish or modify the scope of their right to return. Conversely, if the right to return was recognized, that meant that the payment of money could extinguish that right, and that was inconsistent with the Universal Declaration of Human Rights. The Sub-Commission could hardly declare that the right to return was something to be bought and sold.

45. In the new paragraph 6, the Sub-Commission urged Governments to cease forced displacement and ethnic cleansing. Two paragraphs later, it was thus not possible to allow those same Governments to exonerate themselves by allowing them to trade the victims of such practices for money. For all those reasons, he maintained the amendments he had proposed.

46. Ms. ZERROUGUI said that, if the amendments proposed by Mr. Sik Yuen were not accepted, she would ask that her name should be withdrawn from the list of sponsors of the draft resolution.

47. Mr. KARTASHKIN said that the draft resolution under consideration raised extremely complex issues and that the Sub-Commission must not rush its decision. He hoped that, in future, experts would acquaint themselves with draft resolutions early enough to be able to give them their full attention.

48. Mr. BENGOA, associating himself with the views expressed by Mr. Kartashkin, proposed that the consideration of the draft resolution should be postponed until the following session.

49. Ms. HAMPSON said that the draft resolution with her proposed amendments was entirely in keeping with the international obligations of States and with UNHCR policy. Given the urgency of the situation, the text's adoption should not be delayed by a year.

50. Ms. WARZAZI and Mr. ALFONSO MARTÍNEZ said that they supported Mr. Bengoa's proposal.

51. It was decided that the consideration of the draft resolution on the right of return of displaced persons (E/CN.4/Sub.2/2000/L.28) should be postponed until the following session by 11 votes to 9, with 1 abstention.

52. The CHAIRPERSON invited Ms. Daes to introduce a draft decision under agenda item 10 (a).

53. Ms. DAES said that the draft decision, which she had submitted to the Secretariat on 14 August, proposed the addition at the fifty-third session of a sub-item to agenda item 10 entitled: "Smuggling and trafficking of persons and the protection of their human rights". The draft decision would also urge the Secretary-General to draft a note on the issue, for submission to the Sub-Commission at its fifty-third session.

54. Mr. ALFONSO MARTÍNEZ said that the draft decision, which had been communicated to him only the previous day, did not feature on the list of 43 texts officially submitted to the members of the Sub-Commission. In view of its importance and in order to simplify matters, he proposed that the item should be included on the agenda of the fifty-third session forthwith and without an official decision being taken.

55. Ms. DAES said that, unless the members of the Sub-Commission disagreed, she saw no reason why the issue should not be added to the agenda of the fifty-third session.

56. It was so decided.

Draft resolutions and decisions under agenda item 12

Draft decisions on human rights and human responsibilities (E/CN.4/Sub.2/2000/L.4 and L.5)

57. Mr. JOINET said that there were two draft decisions before the Commission with the same objective, namely, a study on the issue of human rights and human responsibilities at the request of the Commission. Two equally qualified members had expressed an interest in undertaking the study. The two draft decisions could be merged and two co-rapporteurs appointed. Mr. Pinheiro accepted that solution, but Mr. Alfonso Martínez as yet did not. He gave some examples of similar situations resolved by nominating "co-rapporteurs". His proposed amendment was thus fully in line with Sub-Commission tradition. Moreover, since Mr. Pinheiro had not undertaken a study since he had become a member of the Sub-Commission, it was natural that he should have expressed an interest in the study in question. For his own part, he had wished to act in a transparent manner out of respect for his two colleagues and to avoid a procedural discussion for the Chairperson. He therefore proposed that draft decision E/CN.4/Sub.2/2000/L.4, as amended, should be adopted without a vote.

58. Ms. WARZAZI said that the amendment proposed by Mr. Joinet placed her in a difficult situation. Mr. Alfonso Martinez had contacted her and she had promised to support his candidature. When Mr. Pinheiro had contacted her four days later, she had felt bound by her original commitment. It was unfortunate to have to support one or other candidate since that meant choosing between two people. She hoped that the problem could be solved without a vote and that Mr. Joinet would withdraw his amendment.

59. Mr. GUISSÉ said that efforts to bring the two sides closer together to arrive at an amendment had been going on for a week. Those preparing a study usually agreed to work together, but that was not the case now. The solution was to put draft decisions E/CN.4/Sub.2/2000/L.4 and L.5 to a vote.

60. Mr. ALFONSO MARTÍNEZ said that the last roll-call vote in the Sub-Commission had taken place in 1987 on a proposal to appoint an expert to undertake a study. The aim had been to prevent the appointment of a certain member of the Sub-Commission - himself - to undertake the study because he was from a particular country and because of his political ideas and his opinions on the topic in question. It was unacceptable to consider that one expert was better than another. In the case under consideration, from the moment his candidature had been made public, several attempts had been made to block it and Mr. Joinet's amendment was the latest of them. He did not question Mr. Pinheiro's personal qualities or competence, but considered that they differed on too many points to allow them to be co-rapporteurs. He would therefore vote against the amendment proposed by Mr. Joinet.

61. Mr. EIDE pointed out that Mr. Pinheiro did not rule out the idea of a joint report. The situation in 1987 could be seen as more confrontational since one of the candidates had been from Cuba and the other from the United States of America. In the case under consideration, the two candidates were from Latin America. Differences of opinion could be very valuable and the report could include different points of view. For that reason, he strongly supported the amendments proposed by Mr. Joinet. If they were not adopted, he would request a vote on the draft decision contained in document E/CN.4/Sub.2/L.4 and would vote against it.

62. Ms. DAES said that, from the outset, she had been a sponsor of draft decision E/CN.4/Sub.2/2000/L.5, but the secretariat had mistakenly not included her name. She requested that the mistake should be corrected.

63. She agreed with Mr. Eide's views on the amendment. The study was very important and involved many issues that could be shared by the two authors of the study. She would therefore vote in favour of the amendment if it were put to the vote. Otherwise, she would support draft decision E/CN.4/Sub.2/2000/L.5.

64. Mr. LEBAKINE (Secretary of the Sub-Commission) confirmed that the names of three sponsors, Ms. Daes, Mr. Bengoa and Mr. Park, had mistakenly been left out of draft decision E/CN.4/Sub.2/2000/L.5.

65. Mr. PINHEIRO drew Mr. Guissé's attention to the fact that, from the beginning, he had agreed to be co-rapporteur. The comparisons that had been made did not apply in the current case.

66. Ms. HAMPSON said she believed that the members of the Sub-Commission could not be asked to choose between two people and the best approach was therefore to support the amendment proposed by Mr. Joinet. Moreover, draft decision E/CN.4/Sub./2000/L.4 referred to a study rather than to a report. The interim report had to be submitted to the Commission at its fifty-seventh session, not the fifty-eighth, and the full study had to be submitted at the fifty-eighth session, not the fifty-ninth.

67. Mr. FAN said that he would respect the commitment he had made to support the candidature of Mr. Alfonso Martínez and would therefore vote against the amendment and in favour of draft decision E/CN.4/Sub.2/2000/L.4.

68. Mr. BENGOA said that he had discussed the question with his two Latin-American colleagues and, since it was not possible to support one without rejecting the other, he preferred to entrust the study to both of them.

69. Mr. YOKOTA, supported by Mr. Sik Yuen, said that a rapporteur should not be asked to undertake a study under conditions he found unacceptable. Mr. Joinet's amendment would place Mr. Alfonso Martínez in an untenable situation and he therefore found it difficult to support it.

70. Mr. EIDE said that there had already been instances when two rapporteurs holding different opinions had submitted a study containing differing viewpoints. In such cases, the opinions expressed were not mutually binding.

71. Mr. GUISSÉ proposed that the amendment submitted by Mr. Joinet should be put to the vote.

72. At the request of Mr. Alfonso Martínez, a vote was taken by roll-call on the amendment proposed by Mr. Joinet.

73. The amendment proposed by Mr. Joinet was rejected by 12 votes to 8, with 3 abstentions.

74. Mr. KARTASHKIN explained that he had voted against the proposed amendment because he had already expressed his support for Mr. Alfonso Martínez.

75. Mr. JOINET congratulated Mr. Alfonso Martínez and explained that he had submitted the amendment to the draft decision for reasons of transparency and clarity.

76. Mr. WEISSBRODT said that the draft decision was not in keeping with the guidelines from the Commission on Human Rights that had asked for an interim study on the issue to be submitted to it at its fifty-seventh session and a final report at its fifty-eighth session.

77. Ms. WARZAZI expressed the hope that the Sub-Commission would never again be faced with a situation in which it had to vote against a highly respected colleague. The vote reflected the split between countries of the South and those of the North.

78. Ms. MBONU said that she had voted against the amendment because she had already expressed her support for Mr. Alfonso Martínez. Furthermore, she realized that it was difficult to work as a team when points of view differed greatly.

79. Mr. JOINET said that he had two amendments to propose to the draft decision. The first related to the submission of an interim study, rather than report, and then a complete study, rather than a final report, to the Commission on Human Rights. The second concerned the

submission of an interim study to the Commission at its fifty-seventh, rather than at its fifty-eighth session, and the complete study at its fifth-eighth, rather than fifty-ninth, session, in accordance with Commission resolution 2000/63.

80. Ms. HAMPSON confirmed the remarks made by Mr. Joinet and the terms used by the Commission in the English version.

81. Mr. EIDE said that he was surprised by Ms. Warzazi's comments on the division between North and South, since, in the present case, the two countries concerned belonged to the South. He said that he wished to become a sponsor of draft decision L.5.

82. Mr. PINHEIRO said that he had never tried to stop Mr. Alfonso Martínez from carrying out his study and that he had nothing to do with any North-South conflict.

83. Ms. WARZAZI, speaking on a point of order, proposed that the debate should be closed and a vote should be taken on draft decisions E/CN.4/Sub.2/2000/L.4 and L.5.

84. Mr. JOINET said that he would join the consensus on the first draft decision on condition that Mr. Alfonso Martínez accepted the two amendments he had proposed.

85. Mr. ALFONSO MARTÍNEZ said that the draft decision as it was stood respected the terms of Commission resolution 2000/63 with the exception of the dates for the submission of the studies.

86. The CHAIRPERSON suggested that the Commission should vote by show of hands on draft decision E/CN.4/Sub.2/2000/L.4.

87. Mr. ALFONSO MARTÍNEZ requested a roll-call vote.

88. The vote was taken by roll-call.

89. Draft decision E/CN.4/Sub.2/2000/L.4 was adopted by 14 votes to 4, with 5 abstentions.

90. Ms. WARZAZI asked whether the sponsors of the second draft decision maintained it.

91. Mr. EIDE said that he saw no objection to two people undertaking a study separately on the same subject and, consequently, to draft decision E/CN.4/Sub.2/2000/L.5 being maintained.

92. The CHAIRPERSON said that Ms. Warzazi had requested a roll-call vote on the draft decision.

93. The vote was taken by roll-call.

94. Draft decision E/CN.4/Sub.2/2000/L.5 was rejected by 12 votes to 6, with 5 abstentions.

Draft resolution on the promotion of dialogue on human rights issues (E/CN.4/Sub.2/2000/L.17)

95. Mr. FAN said that, although their names did not for technical reasons appear on the draft resolution, Mr. van Hoof, Ms. Hampson and Mr. Joinet were also sponsors of the draft. He proposed that it should be adopted unanimously.

96. Draft resolution E/CN.4/Sub.2/2000/L.17 was adopted unanimously.

Draft resolution on the encouragement of universal acceptance of human rights instruments and observance of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights by States which are not parties to United Nations human rights conventions (E/CN.4/Sub.2/2000/L.18).

97. Mr. KARTASHKIN, introducing the draft resolution, said that it was supported by almost all members, Mr. Joinet having added his name. He proposed that the following paragraph should be added at the end of the preamble: "Recalling its decision 1998/115 of 26 August 1998 on the observance of human rights by States which are not parties to United Nations human rights conventions and the working paper submitted by Mr. Kartashkin (E/CN.4/Sub.2/1999/29) pursuant to that decision and noting the additional working paper submitted by Mr. Kartashkin (E/CN.4/Sub.2/2000/2) pursuant to Sub-Commission resolution 1999/28 of 26 August 1999". Turning to operative paragraph 5, he proposed that the words "and as a distinct agenda item of the Sub-Commission;" should be added after the words "as a matter of priority". He then read out operative paragraph 1 and said that it would be desirable if all members of the Sub-Commission participated in the planned seminar. However, if that were not possible for financial reasons, it would in any case be essential that at least two members of the Sub-Commission representing each of the geographical regions took part. Furthermore, the seminar should last at least two or three days. He expressed his hope that the draft resolution might be adopted by consensus.

98. Mr. FAN expressed his support for the draft resolution, but with some reservations. He recalled the distinction that existed between human rights declarations and conventions. The former entailed moral and political obligations, while the latter were legally binding. He also wondered about the usefulness of holding a seminar such as that being proposed.

99. Mr. KARTASHKIN thanked Mr. Fan for not opposing the draft resolution. He added that the word "/or" in operative paragraphs 1 and 6 should be deleted, since all States which were not parties to one or the other Covenant were invited to participate in the seminar.

100. Draft resolution E/CN.4/Sub.2/2000/L.18 was adopted by consensus.

Draft decision on the humanitarian situation in Iraq (E/CN.4/Sub.2/2000/L.32)

101. Ms. WARZAZI, introducing the draft decision, said she hoped that it would be supported by other members of the Sub-Commission. As had been suggested to her, she proposed that the title of the draft decision should be replaced by: "Humanitarian situation of the Iraqi population". She hoped that the draft decision would be adopted by consensus.

102. Ms. MBONU said that she wished to become a sponsor of the draft decision.

103. Mr. WEISSBRODT said that the draft decision raised the same problem as the draft resolution concerning the situation of women and girls in Afghanistan (E/CN.4/Sub.2/2000/L.24). In fact, the Sub-Commission should refrain from adopting resolutions referring to specific countries.

104. Ms. ZERROUGUI said that the draft decision was not aimed at a specific country, but raised the problem of the violation of human rights, as in the case of the draft resolution on the situation of women and girls in Afghanistan, which had in any case been adopted. Its aim was to request the international community to lift the embargo imposed on Iraq.

105. Ms. WARZAZI said that, in the case of Iraq, the draft decision related to human rights violations resulting from an externally imposed embargo, and that was therefore not contrary to the Commission's decision.

106. Ms. DAES said that she supported the thrust of the draft decision and its objective of helping the Iraqi population. In her opinion, an embargo was the most inhumane measure that could be taken against a civilian population. If the title of the draft decision mentioned the word "Iraq", she would not support it.

107. Mr. JOINET thanked Ms. Warzazi for having agreed to amend the title of the draft decision, which now took account of the Sub-Commission's desire to support the Iraqi people rather than the Iraqi Head of State.

108. Mr. FAN, expressing support for the draft decision, reiterated his desire for conformity in all points with the guidelines given to the Sub-Commission by the Commission on Human Rights.

109. Mr. YOKOTA expressed his approval of the substance of the draft decision. However, he thought that the Commission's instructions should be respected. To make it quite clear that the Sub-Commission was not accusing anyone in particular, he therefore proposed that the title of the draft decision should be amended to read: "Concern over the humanitarian situation of the Iraqi population".

110. Mr. ALFONSO MARTÍNEZ said that the draft decision did not in any way contravene the Commission's instructions. Furthermore, the Commission had considered that the Sub-Commission should be authorized to consider urgent questions concerning grave violations of human rights in any country whatsoever. That was exactly what was happening at present in Iraq as a result of the embargo.

111. Mr. EIDE said that, even if the Sub-Commission was authorized to consider grave violations of human rights in a country, that did not necessarily mean that such consideration could lead to the adoption of a resolution. However, he welcomed the fact that the Iraqi Government was mentioned at the end of the draft decision. It should in fact be emphasized that the embargo was not the sole cause of the sufferings of the Iraqi population. By refusing to cooperate and by making it very difficult for the population to gain access to food and medicine,

the Iraqi Government bore a heavy responsibility. It therefore seemed difficult to deal with the question from a strictly humanitarian point of view without indicating who was responsible. That said, he would not oppose a consensus, although he would prefer the draft decision to be turned into a Chairperson's statement because, to his knowledge, the Commission had not forbidden the Sub-Commission to adopt Chairperson's statements concerning the situation in a given country.

112. Mr. RAMISHVILI said that he had visited Iraq at the beginning of the year and had been able to see with his own eyes the dramatic consequences of the embargo, especially when he had visited hospitals. The Sub-Commission could not at one and the same time be advocating measures in support of countries' development and not be condemning measures clearly aimed at preventing populations from exercising their social and economic rights.

113. The draft decision did not condemn a State for human rights violations committed in its territory; it merely drew the attention of the international community to the sufferings of the Iraqi people. It was therefore not in contradiction with the Commission's instructions.

114. Ms. HAMPSON said that she approved of the substance of the draft decision. However, she could not support it because it contained references to specific countries. She would not oppose a consensus, but would prefer the humanitarian situation of the Iraqi people to be the subject of a Chairperson's statement.

115. Mr. RODRÍGUEZ CUADROS said that everyone was in agreement about the role played by the embargo in the humanitarian situation of the Iraqi people. However, the Commission had requested the Sub-Commission not to adopt resolutions targeting specific countries and to refrain from discussing and adopting thematic resolutions containing references to specific countries. The Sub-Commission had to implement those directives.

116. He would have liked the responsibility of the Iraqi Government to be expressly mentioned in the text.

117. Mr. GUISSÉ said that he fully shared the views expressed by Ms. Zerrougui and Mr. Ramishvili. The Sub-Commission was not condemning a State, but requesting the international community to come to the aid of a population that was in danger in order to ensure that its rights were respected.

118. Draft decision E/CN.4/Sub.2/2000/L.32 was adopted without a vote.

The meeting rose at 1.05 p.m.

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Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-second session
Item 8 of the provisional agenda

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Report of the Working Group on Minorities on its sixth session

Corrigendum

Paragraph 83, first sentence

Replace 107 on migrant workers by 97 on migrant workers and 107 and

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GE.01-12088 (E)